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| 10/658,145 | 09/09/2003 | Richard Wilfred Wright | | 5398 |
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| EXAMINER |
|---------------------|
| REIFSNYDER, DAVID A |

| ART UNIT | PAPER NUMBER |
|----------|--------------|
| 1723 | |

DATE MAILED: 04/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/658,145

Applicant(s)

WRIGHT, RICHARD WILFRED

Examiner

David A. Reifsnnyder

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 September 1993 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Disclosure

The specification is objected to for being replete with terms, which fail to provide proper antecedent basis. Examples of terms fail to provide antecedent basis are taken from the section entitled "DETAILED DESCRIPTION OF THE PREFERRED EMBODIMENTS" and are as follows:

Paragraph [0021]; "the central rotating hub 3".

Paragraph [0022]; "the three pipes 5, 6 & 7".

Paragraph [0023]; "the middle compartment 14".

Paragraph [0025]; "the lower compartment 15".

The specification should be revised carefully. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o).

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "2" and "17" have both been used to designate a **rotating compartment**.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "13" and "37" have both been used to designate an **upper compartment**.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "14" and "36" have both been used to designate a **middle compartment**.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "15" and "38" have both been used to designate a **lower compartment**.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "4" and "39" have both been used to designate **variable width slots**.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "9" and "19" have both been used to designate **a fixed bridge**.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "8" and "18" have both been used to designate **a slewing bearing assembly**.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "9" and "19" have both been used to designate **a fixed bridge**.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "19" has been used to designate both a **fixed bridge** and a **drive bridge**. While it is understood that the fixed bridge is the same part as the drive bridge, using different words to describe the same part is confusing.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because as discussed above reference characters "8" and "18" have been used to describe the same part, that part being described as either a slewing bearing assembly

or a central slewing bearing. While it is understood that the slewing bearing assembly is the same part as the central slewing bearing, using different words to describe the same part is confusing.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "1" has been used to designate both a tank and a clarifier. While it is understood that the tank and the clarifier is the same part, using different words to describe the same part is confusing.

The above may not be all of the problems with the drawings. The same parts from the two embodiments should be labeled the same. The different parts fro the two embodiments should be labeled differently. It appears that embodiments 1 and 2 are the same except that embodiment 1 has a rotating hub (3) while embodiment 2 has concentric tanks (25, 26). **Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application.** Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d).

The objection to the drawings will not be held in abeyance.

The abstract of the disclosure is objected to because the applicant's abstract is directed to a continuous process of clarifying sugar juice and fails to define any structural features of that process, while the applicant's newly presented claim is

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directed to a sugar juice clarification apparatus comprising a cylindrical clarification tank and an arm and hub assembly along with various structural limitations of the arm and hub assembly.

Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 5 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention. The instantly claimed “**slowly** rotating hollow, submerged arm and hub assembly” is **new matter** because the specification did not originally describe the rotating hollow, submerged arm and hub assembly” as being a “**slowly** rotating hollow, submerged arm and hub assembly”. Furthermore, the **upper chamber** within the rotating arm, the **lower chamber** within the rotating arm and the **central chamber** within the rotating arm are all **new matter**, because the specification originally only described a **upper compartment** within the rotating arm, a **lower compartment** within the rotating arm and a **middle compartment** with the rotating arm. In addition, the

instantly claimed adjustable weir slots and adjustable aperture slots are new matter because the specification originally described variable (i.e. adjustable) slots.

Claim 5 is rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for the rotating arm having an upper compartment, a middle compartment and a lower compartment, does not reasonably provide enablement for the rotating arm having an upper chamber, a central chamber and a lower chamber. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make the invention commensurate in scope with these claims. Furthermore, the specification, while being enabling for variable (i.e. adjustable) slots is not enabling for adjustable weir slots and/or adjustable aperture slots.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 5 is rejected under 35 U.S.C. 112, second paragraph, because the term "slowly rotating" in claim 5 is a relative term, which renders the claim indefinite. The term "slowly" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claim 5 is also rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The recitations in claim 5 of: "the contents of mixed sugar juice", "the settlement", "the precipitate", "the consequential vertical rise", "the clear juice", "the shortest possible time", "the complete elimination", "the juice content volume", "the introduction of mixed sugar juice" (twice), "the extraction of clarified juice and precipitate", "the extraction of clear juice and precipitate", "the arm", "the center", "the clarification tank", "the risen, clarified sugar juice", "the top" (twice), "the content", "the said tank", "the rotating arm" (ten times), "the leading edge", "the upper chamber", "the even extraction of risen clarified juice", "the top surface", "the clarifier contents" (twice), "the contents" (six times), "the clarifier" (four times), "the rate of clarified juice removal", "the rate of reduction", "the volume" (twice), "the forward rotary movement" (twice), "the hollow, submerged arm" (twice), "the bottom", "the leading vertical face", "the lower chamber", "the even extraction of settled precipitate", "the bottom surface", "the rate of settled precipitate removal", "the rate" (twice), "the reduction", "the clarifier tank" (twice), "the trailing vertical face", "the central chamber", "the even volumetric replacement", "the extruded clarified juice and precipitate", "the mixed sugar juice", "the rate of removal", "the clarified juice and settled precipitate", "the maximum cylindrical volume", "the majority", "the liquid contents".

The recitations of "precipitate (seven times) are vague and indefinite because mud is in parenthesis and the recitation of "precipitate mud" is grammatically incorrect.

The recitation of "clear (clarified) juice" is vague and indefinite because clarified is in parenthesis and clear clarified juice is grammatically incorrect.

Allowable Subject Matter

Claim 5 would be allowable if rewritten or amended to overcome the rejections under 35 U.S.C. 112, 1st and 2nd paragraphs, set forth in this Office action.

The main reason for the allowance of claim 5 over art is that the prior art of record fails to describe or fairly suggest a sugar juice clarification apparatus comprising a cylindrical clarification tank and an externally driven, rotating arm an hub assembly rotating about the center of the cylindrical clarification tank having all of the features and limitations of the rotating arm and hub assembly.

Partial Suggested Draft Claim

Due to the numerous 35 U.S.C. 112, 1st and 2nd paragraph problems with claim 5 it is simply not possible for the Examiner to draft a suggested claim for the applicant. However, the Examiner has drafted a partial claim for the applicant. The following claim is not a complete claim. The following claim has to do with the features of the rotating arm. From the applicant's claim 5, the Examiner could determine that the applicant wanted to claim the features of the rotating arm. However, the applicant definitely needs to add some intended use language into the new claim. When the applicant adds the intended use language into the new claim he needs to be very careful as to not create 35 USC 112 1st and/or 2nd paragraph problems. Furthermore, the Examiner believes that for the new claim to be complete, the applicant needs to add structure relating to the hub portion of the arm and hub assembly. However, when

the applicant does that it may well create a new issue with the new claim. The creating of a new issue with the new claim would not be a problem, except for the fact that this case is after final. If the applicant feels that he is adding a new issue into the claim, then he should file a RCE. If the applicant writes a new claim in which the Examiner can determine what the applicant intends to claim, then even if the applicant's newclaim is not completely compliant with 35 U.S.C. 112, the Examiner will be able to draft the applicant a suggested allowed claim.

A partially drafted new claim is as follows:

A sugar juice clarification apparatus comprising:

a cylindrical clarification tank having a center;

an externally driven, rotating arm and hub assembly comprising a central rotating hub attached to a rotating arm, the arm and hub assembly rotating about the center of the cylindrical clarification tank;

the rotating arm comprising an upper compartment with a leading top edge, a middle compartment with a trailing vertical face having a bottom portion, and a lower compartment with a leading bottom edge;

the upper compartment having a series of adjustable slots on the leading top edge of the upper compartment;

the middle compartment having a series of adjustable slots on the bottom portion of the trailing vertical face of the middle compartment;

the lower compartment having a series of adjustable slots on the leading bottom edge of the lower compartment;

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to David A. Reifsnyder whose telephone number is (571) 272-1145. The examiner can normally be reached on M-F 9:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda M. Walker can be reached on (571) 272-1151. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


David A Reifsnyder
Primary Examiner
Art Unit 1723

DAR